

STATE HOUSING APPEALS BOARD

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Minutes of the December 13, 2013 Board Meeting

The State Housing Appeals Board (“SHAB” or the “Board”) held a public meeting on December 13, 2013 at The Department of Administration, One Capitol Hill, Providence, Rhode Island.

ATTENDANCE

The following members were present: Chairwoman Kelley Morris, Brenda Clement, James Grundy, Luis Torrado, Joseph Caffey and municipal alternate member Steven Stycos. Also present were Steven M. Richard, legal counsel to the SHAB, and Christine DaRocha, administrative staff to the SHAB.

Call to Order

Chairwoman Morris called the meeting to order at 2:05 p.m.

Approval of 9/18/13 Minutes

The Board unanimously approved the 9/18/13 minutes.

Update from SHAB's legal counsel regarding status of docket

Mr. Richard stated that SHAB issued its written decision granting the Motion to Dismiss in the SWAP vs. West Greenwich appeal. The developer has appealed SHAB's ruling to the Rhode Island Superior Court.

Mr. Richard also briefed the Board regarding a meeting between representatives of the Governor's office, SHAB's Chair and Legal Counsel, and Rhode Island Housing staff regarding the impact, if any, of SHAB's regulations on small businesses. The Governor's office is conducting a statewide review of administrative regulations. The feedback from the Governor's representatives was very positive, citing that SHAB operates in a transparent manner.

North End Holdings Company, LLC v. Town of Barrington ("The Residence at the Preserve"), SHAB Appeal No. 2012-01

William Landry, counsel for the Appellant, North End Holdings Company, argued that his client's project was initially presented as a 27 unit project and was reduced voluntarily to 24 units (with 6 low and moderate income housing units) on a seven acre site located in an

R40 zoning district. Engineers and a traffic expert testified during the course of the Town hearings. A technical review committee, consisting of a member of the Town's Planning Board, Public Works Director, Fire Chief, and Building Official, discussed the plan and made suggestions. The developer contends that it incorporated the suggested changes, but the Planning Board voted to deny the application as amended. Mr. Landry stated that the proposed project complies with the Town's Affordable Housing Plan as amended in 2009, and maintains that the 2009 version of the Plan controls as the version in place when the application was certified as complete. Mr. Landry asserted the developer's contention that the Town amended the Plan in 2012 to target this specific plan and justify its denial. Counsel also argued that, with limited parcels in the Town available for development, the Planning Board must show more support of applications such as the one at issue here to allow the Town of Barrington to achieve the statutory 10% threshold of low and moderate income housing units.

Nancy Letendre, representing the Town of Barrington and the Barrington Planning Board, argued that Mr. Landry misinterpreted the Affordable Housing Element of the Comprehensive Plan. She argued that the current language in the 2012 amendment is actually more generous in terms of the options that it offers. Ms. Letendre further argued that the Planning Board appropriately denied the plan based upon the Town's Affordable Housing Plan. She further noted that the plan is inconsistent with local needs and poses health, safety and the

environmental concerns that required the denial of the application, as amended. Ms. Letendre contended that the Town is making substantial progress in promoting affordable housing, but submitted that the developer's application was properly denied particularly based upon its proposed density. Particularly, she noted that the developer's application requests a density increase of more than 500%. She cited the 20% density bonus provided for in the Housing and Neighborhood Strategy 5-8, dated November 2011.

Mr. Richard noted that both sides articulated their positions and their briefs were well written. He suggested the Board take the matter under advisement to review the briefs and record again before deliberating at its next meeting.

Adjournment

The meeting adjourned at 4:10 p.m.

Respectfully submitted,

Kelley Morris, Esq., Chairwoman